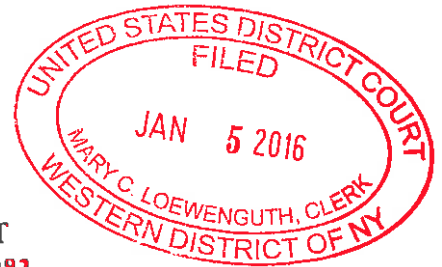


Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

16 CV 6006 S

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Salvatore Pierre ICN 104963

2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed R. Civ P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. Sergeant McAndrew

4. Chief Harris

2. Sergeant Kerns

5. ECHC medical staff

3. Supervising Physician

6. Sgt Anderson

Capt. [unclear]

Deputy Kce

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper

Name and Prisoner Number of Plaintiff: Salvatore Pierre ICN 104963

Present Place of Confinement & Address: Erie County Holding Center
40 Delaware Ave Buffalo New York 14202

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

5 The approximate date the action was filed: _____

6 What was the disposition of the case?

Is it still pending? Yes _____ No X

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to exhaust administrative remedies;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

B. Have you begun **any other lawsuits in federal court which relate to your imprisonment?**

Yes _____ No X

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No X

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to **42 U.S.C. § 1997e(a)**, "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper

Name of Defendant: Sergeant Heros
 (If applicable) Official Position of Defendant: Grievance Coordinator
 (If applicable) Defendant is Sued in X Individual and/or X Official Capacity
 Address of Defendant: Erle County Holding Center
40 Delaware Ave Buffalo New York 14202

Name of Defendant: Sergeant McAndrew
 (If applicable) Official Position of Defendant: Grievance Coordinator
 (If applicable) Defendant is Sued in X Individual and/or X Official Capacity
 Address of Defendant: Erle County Holding Center
40 Delaware Ave Buffalo New York 14202

Name of Defendant: Chief Heros
 (If applicable) Official Position of Defendant: Oversees inmates and staff
 (If applicable) Defendant is Sued in X Individual and/or X Official Capacity
 Address of Defendant: Erle County Holding Center
40 Delaware Ave Buffalo New York 14202

2nd
page

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes ___ No X

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district, if state court, name the county) _____

3. Docket or Index Number _____

4. Name of Judge to whom case was assigned. _____

Defendants Information Pg 2 Cont

Sergeant Anderson

Official position of Defendant: Floor Sergeant

Defendant issued in X individual and/or X official capacity

Address of defendant: Erie county holding center, 40 Delaware ave Buffalo, NY, 14202

Deputy Kee

Official position of Defendant: Unit housing deputy

Defendant sued in X individual and/or X official capacity

Address of defendant: Erie county holding center, Buffalo, 40 Delaware ave, NY, 14202

Supervising Physician

Official position of Defendant: supervising physician

Defendant is sued in X individual and/or X official capacityAddress of defendant: Erie county holding center, 40 Delaware ave. Buffalo, NY, 14202
95 Franklin St

Erie county Holding center medical staff

Official position of Defendant: Erie county Dept of health medical staff, jail management division

Defendant is sued in X individual and/or X official capacity

Address of defendant: Erie county holding center, 40 Delaware ave Buffalo, NY 14202

Captain Kuppel

Official position of defendant: oversees staff, inmates, reports to Chief

Defendant is sued in X individual and/or X official capacityAddress of defendant: Erie county holding center 40 Delaware ave
Buffalo, NY, 14202

A. FIRST CLAIM: On (date of the incident) December 16, 2015

defendant (give the name and position held of each defendant involved in this incident) Sgt McAndrew,
Sgt Kern, Chief Harris, Supervising Physician, ECHC medical staff,
Captain Kuppel

did the following to me (briefly state what each defendant named above did): On the above date I filed
a Grievance Slip requesting to receive a better condition mattress
from the medical department, due to my Medical Health Condition. I was
told by medical dept that the facility policy does not allow them to give out new
mattress or double mattress for my medical reason. On Dec 17th 2015 Medical
Staff, including Nurse, doctor, and other staff, were called in to my room 3a-46

with an accent, straight black hair, approx. 160-190lbs this same
medical personnel approved me for a new mattress as well as informing assigned ^{2nd}

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Denial of Medical Treatment,
Emotional distress, negligence and medical malpractice / Discrimination
Ex: For my medical condition

The relief I am seeking for this claim is (briefly state the relief sought): Due to pain and suffering,
I am requesting Monetary in the Amount of: Five (5) Million

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? No relief

Did you appeal that decision? ☐ Yes ☒ No If yes, what was the result? I was told by the
Sgt McAndrew that the grievance could not be appeal.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: I was told by Sgt McAndrew
that the grievance could not be appeal

A. SECOND CLAIM: On (date of the incident) 12-13-15

defendant (give the name and position held of each defendant involved in this incident) Sgt Kern, Sgt
Anderson, Deputy Kee

housing unit officer on Charlie Long, am Shift. On Dec 10th 2015 at approx. 8:00 pm the assigned housing officer then contacted Support Staff (maintenance) to deliver said mattress. Upon delivery of mattress, Deputy and I noticed mattress was in poor condition when I was supposed to receive a new one. Being ~~housing~~^{said} housing officer allowed me to keep both mattresses, which did not resolve the pain of my disability. I was then told by another housing officer: "why do y'all homos constantly try to take advantage of the medical staff". Which I am an openly gay African-American male. I felt extremely, unaccepted and uncomfortable. I was made to feel and treated like a monster by security staff once I disclosed my HIV status in a grievance.

On about 11-26-15/12-16-15 Medical Staff administered the wrong medications and correct medication in the wrong doses. The non-adherence to these medications can cause my terminal illness to progress and become worse. I informed medical on multiple occasions that the dosages were incorrect and could not take them. Also informed medical staff if all four medications are not administered at the same time, I can not take any, as my body will become immune and form a resistance to all the medications. In turn this would cause my illness to progress and cause me to be sick.

Sallatore Pioroz
Signature

On 12-23-15 I was taken to Erie County medical Center by Erie County holding center to see my specialist. My Doctor, Ms. Karen Brown wrote for me to receive a new unused mattress. Upon arrival at Erie County holding center I was screened by medical staff. I inquired about the order for the new mattress. The same nurse as described on first page of the first claim states: We do not give out new mattresses. I was returned to my unit, Fox East escorted by Deputy Brennan. The same officer that escorted me to my specialist and my medical screening, ~~after~~ upon returning to the unit we attempt to explain to the housing officer; Jorgensen about the situation. He tells me I can speak to unidentified sergeant about what is going on. At about 11:30 am the sergeant comes to speak with me. Said sergeant is ~~about~~ ^{white male} 6-foot 1-2 inches, black hair, greying at the temples between 30-40. I explained the situation about the mattress and he said as long as it was ordered by the doctor there is no reason I should not be able to get it and he will see what he can do. After ten minutes on the phone sergeant leaves and housing officer calls me up to the desk and informs me that there was no order written and shows me in the log book where ~~described~~ sergeant wrote that an order for a new mattress was not ordered by any doctor.

Dallatore Pin
signature

did the following to me (briefly state what each defendant named above did): multiple mattresses are old and defective. They do not provide any comfort for inmates nor support for relief of my disability. Mattresses have holes, are stained, and smell of bodily odors. There is no proper sanitization products for cleaning. I have notified multiple staff on numerous occasions about poor conditions in which there has been no relief.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Condition of confinement / Due Process, Emotional Distress.

The relief I am seeking for this claim is (briefly state the relief sought): I am requesting Monetary in the amount of 1.4 million

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? X Yes _____ No If yes, what was the result? NO relief

Did you appeal that decision? X Yes _____ No If yes, what was the result? I was told by Sgt that the grievance can not be appealed

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: I was told by Sgt that the decision could not be appealed

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

I Feel I should be awarded said amount(s) because of the poor conditions of confinement and medical negligence. Due to these factors I have experienced much pain, suffering, emotional distress and possible life long negative repercussions due to the lack of care for my disability and terminal illness.

Do you want a jury trial? Yes X No _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12-23-15
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

Sallatove Pinner

Signature(s) of Plaintiff(s)

FORM C(1) — AFFIRMATION OF SERVICE
(If you are not having your signature notarized, use this form)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Salvatore Pierre

Plaintiff(s),

AFFIRMATION OF SERVICE

Sgt Anderson
Supervising Physician
Sergeant McAndrew
Sergeant Kent
Chief Harris
ECHC Medical Staff
Deputy Lee
Captain Kupple Defendant(s).

_____-CV-_____

I, (print your name) Salvatore Pierre, make the following affirmation under penalty of perjury:

I have served a copy of the attached motion papers upon the all of the other parties in this case by (check the one which applies) Mailing ☒ Hand-delivering _____ the motion papers to the attorneys for all of the other parties at the following addresses:

I have mailed each defendants their own affirmation of Service to

Erie County Holding Center 40 Delaware Ave Buffalo
NY 14202

on (state the date you hand-delivered or mailed the motion papers to the other parties) _____

12/16/2015

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information and belief.

Executed on 12/23/2015
(date)

Salvatore Pierre
(your signature)

To whom it may concern,

It is possible that I will
be moved to Elmira Correctional Facility
and Willard drug treatment facility before
I get a response from the courts.
Thank you for your time

Sincerely

Salvatore Pierre

104963

13-B-1281

NAME: Sullivan Pierre ICN# 164963
ERIE COUNTY HOLDING CENTER
40 DELAWARE AVENUE
BUFFALO, NEW YORK 14202-3999

*United States and District Court
Western District
2 Niagara St
Buffalo, NY, 14202*

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